

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AMARIA JOUZLEN
REYNOLDS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LASHONDA SMITH,

Respondent-Appellant.

UNPUBLISHED

January 10, 2006

No. 263811

Berrien Circuit Court

Family Division

LC No. 2005-000036-NA

Before: O'Connell, P.J., and Smolenski and Talbot, JJ.

MEMORANDUM.

Respondent-appellant LaShonda Smith appeals as of right from the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(l). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, respondent-appellant concedes that her rights to at least two other children were terminated in 1999 due to physical neglect and abandonment caused by her substance abuse. She argues that a strict interpretation of MCL 712A.19b(3)(l) would undermine one of the key purposes of the juvenile code, which was to reunify parents with their children. Respondent-appellant contends that, when reviewing this statutory basis for termination, the trial court should consider the improvement made by a parent since the prior termination.

Respondent-appellant's argument is not supported by the clear language of the statute or the facts. The statute unambiguously allows termination to be based upon a prior termination following initiation of full proceedings due to the parent's neglect or abuse. MCL 712A.19b(3)(l); MCL 712A.2(b). Furthermore, at the time of the disposition hearing, respondent-appellant was incarcerated on charges of maintaining a drug house. The charges were based on the discovery of crack pipes and cocaine residue on a mirror. About seven months earlier, police had raided respondent's home and found marijuana, drug paraphernalia, and a loaded firearm. Therefore, respondent-appellant fails to demonstrate any substantial improvement that should have been taken into consideration. Nevertheless, under MCL 712A.19b(5), the trial court still had to find that termination was not clearly against the best interests of the minor child, so the statute provides a firewall to prevent unjust termination.

The evidence establishes that respondent-appellant continued to smoke marijuana and reside in a drug house while pregnant with the minor child, who tested positive for marijuana at birth. It also showed that the child entered foster care a few days after her birth and never lived with respondent-appellant. Taken together with the evidence that respondent-appellant continued to engage in illegal narcotics activities and was incarcerated because of them, termination of respondent-appellant's parental rights was not clearly contrary to the child's best interests.

Affirmed.

/s/ Peter D. O'Connell
/s/ Michael R. Smolenski
/s/ Michael J. Talbot